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SUBJECT: PAKISTAN'S CONTROVERSIAL NEW ATTORNEY GENERAL

Classified By: Anne W. Patterson, Reasons 1.4 (b), (d)

¶1. (C) Summary: By offering to resign, Pakistan's Attoreny General became the only cabinet member to take the blame for the Chief Justice debacle. But his replacement, Malik Qayyum, has a checked history and is already proving controversial. Qayyum was the presiding judge in the 1999 conviction of Benazir Bhutto, represented Shahbaz Sharif in his 2003 petition to return without facing deportation and most recently was the most vocal member of Musharraf's defense team on the Chief Justice case. As the official who represents the government before the Supreme Court, Qayyum will face growing pressure to deal with judicial appeals on everything from the composition of voter lists to cases challenging Musharraf's right to govern. But allegations of corruption and a poor record of supporting judicial independence are likely to weaken his effectiveness. End Summary.

Khan Resigns, Citing Need for Accountability

¶2. (U) On July 28, Attorney General Makhdoom Ali Khan submitted his resignation, citing the need for government accountability in the wake of the Chief Justice controversy. President Musharraf accepted the resignation and on August 1 appointed Malik Qayyum, a member of his defense team from the Chief Justice case, as the new Attorney General.

¶3. (U) After the Supreme Court reinstated Chief Justice Iftikhar Chaudhry in July, there have been repeated calls for resignations, including those of Prime Minister Shaukat Aziz, Law Minister Wasi Zafar and Attorney General Khan. Khan is the only one to have done so.

Qayyum: A Controversial Replacement

¶4. (C) Qayyum, the new Attorney General, is a controversial figure. He was the presiding judge in the Accountability Court that in April 1999 convicted Pakistan People's Party Chairman Benazir Bhutto and her husband Asif Zardari for accepting kickbacks in return for awarding government contracts. The Supreme Court ordered a retrial of the case in 2001, however, when a leaked government document indicated that Qayyum had been pressured by the Nawaz Sharif government to speed the conclusion of the case and to press for maximum

punishment. (Note: There were also accusations that in return for his cooperation, Qayyum's brother, Pervaiz Malik, was granted a ticket for a National Assembly seat and that Qayyum and his wife received diplomatic passports. End Note.) After the accusations were made public, Qayyum was pressured to tender his resignation to the Lahore High Court and went into private practice. In 2003, Qayyum represented Shahbaz Sharif in his petition to return to Pakistan without facing deportation. Qayyum most recently served on President Musharraf's defense team for the Chief Justice case, where he emerged as Musharraf's most vocal advocate.

15. (U) Soon after his appointment was announced, the Pakistan Bar Council and the Supreme Court Bar Association (which Qayyum used to head) rejected it, saying that Qayyum had betrayed the lawyers' fraternity by siding with the government in the struggle for judicial independence. For its part, the Pakistan Bar Council announced that Qayyum will not be accepted as its chair (a traditional role for Pakistan's Attorney General).

16. (C) Comment: Both the incoming and outgoing Attorneys General can be accused of bungling the case of what admittedly was an ill-conceived idea to suspend the Chief Justice. We will not be sorry to see Khan go, as he blocked further negotiations on the bilateral investment treaty over concerns about investor-state arbitration and other issues. However, Qayyum seems a weak choice to become Attorney General at a particularly critical time for executive-judicial relations in Pakistan.
PATTERSON